IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

OP.No. 3602 of 2002(D)

PETITIONERS:

1. **AMPILI G.,PLAMTHUNDIL VEEDU,**
   KADAMPANAD POST, PATHANAMTHITTA.

2. **SIVADASAN P.V., PLAMTHUNDIL VEEDU,**
   KADAMPANADU POST, PATHANAMTHITTA.

BY ADV. SRI.PHILIP M.VARUGHESE
SRI.BIJISH B.TOM

RESPONDENTS:

1. **INDIAN OIL CORPORATION LIMITED,**
   REPRESENTED BY DIVISIONAL MANAGER, II FLOOR,
   CO.BANK TOWERS, THIRUVANANTHAPURAM.

2. **DEALER SELECTION BOARD,**
   THIRUVANANTHAPURAM, P.T.C.TOWERS, S.S.COIL ROAD,
   THAMPANNOOR,THIRUVANANTHAPURAM.

3. **K.RAMACHANDRAN, S/O. KOCHUKUNJU,**
   CHARUVILA VEEDU, MOOZHILCODE, KOTTATHALA,
   KOTTARAKKARA.

BY ADV. SRI.K.SASIKUMAR
SRI.ANTONY DOMINIC
SRI.E.K.NANDAKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 3602 OF 2002 D

Dated this the 2nd day of January, 2007

J U D G M E N T

The petitioners were applicants for a petroleum retail outlet dealership along with the 3rd respondent. However, the 3rd respondent was preferred to the petitioners, which is under challenge in this original petition. The grounds raised against the selection of the 3rd respondent are that the petitioners have more educational qualification than the 3rd respondent and the 3rd respondent's brother-in-law has a retail outlet of Hindustan Petroleum at Vadasserikkara, which is a disqualification for the 3rd respondent to apply for dealership. The 2nd respondent has filed a counter affidavit stating that the selection of the 3rd respondent was by a dealer selection board constituted by the Government of India with a retired District Judge as its Chairman and two officers of different oil companies as members. The Ministry of Petroleum and Natural Gas has prescribed specific guide lines for selection of dealers and the selection has been done bona fide strictly in accordance with the prescribed guide lines. Regarding the allegations raised by the petitioners, it is submitted that even assuming the contentions raised by the petitioners are true that does not in any way disqualify the 3rd

respondent for being selected. Regarding the educational qualification, it is submitted that the minimum qualification prescribed is matriculation, which the 3rd respondent possesses. Even if the petitioners possess higher educational qualifications the same is not the only criterion for selection under the guide lines. The selection is made on the basis of various parameters and the eligibility of the applicants taking into account all the parameters together. The selection board has conducted the selection on an objective assessment of the comparative merits of the 64 applicants, who participated in interview out of the 74 eligible candidates. Regarding the allegation of disqualification of the 3rd respondent it is submitted in the counter affidavit that the disqualification is attracted only if the following specified relatives are dealers elsewhere namely, (1) spouse (2) father/mother (3) brother/brother's wife(not applicable for women applicants) (4) son/daughter-in-law. Therefore, going by the allegation of the petitioners, accepting the same to be true, the same is not a disqualification for selecting the 3rd respondent.

2. On a consideration of the entire facts and circumstances of the case, I am not satisfied that the petitioners have made out a case for interference with the selection of the 3rd respondent by respondents 1 and 2. Admittedly, this is a selection on the basis of an interview conducted based on guide lines prescribed for the purpose. Unless the petitioners specifically allege mala fides and prove the same, the

petitioners cannot succeed in such challenge when no procedural of infirmities have been pointed out and proved. Even those pointed out by the petitioners have been categorically proved by respondents 1 and 2 to be unsustainable by filing their counter affidavit, which has not been effectively controverted by the petitioners by filing a reply affidavit. Therefore, the averments in the counter affidavit have only to be accepted. In view of the above circumstances, I do not find any merit in this original petition. Accordingly, the same is dismissed.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.3602/02 D

J U D G M E N T

2nd January, 2007